

IN THE UNITED STATES COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

DELSHONE THOMAS and
GWENDOLYN CHENEY,

Plaintiffs,

vs.

GEORGIA DEPARTMENT OF
COMMUNITY HEALTH, and CAYLEE
NOGGLE, in her official capacity as
Commissioner of the Georgia Department
Of Community Health,

Defendants

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Civil Action No.:

1:21-CV-02558-LMM

DEFENDANT'S INITIAL DISCLOSURES

- (1) **If the defendant is improperly identified, state defendant's correct identification and state whether the defendant will accept service of an amended summons and complaint reflecting the information furnished in this disclosure response.**

Not applicable.

- (2) **Provide the names of any parties whom defendant contends are necessary parties to this action, but who have not been named by plaintiff. If defendant contends that there is a question of misjoinder of parties, provide the reasons for defendant's contention.**

Not applicable.

- (3) **Provide a detailed factual basis for the defense or defenses and any counterclaims or cross-claims asserted by defendant in the responsive pleading.**

The Complaint fails to establish that Defendants have breached any duties owed to Plaintiffs or deprived Plaintiffs of any rights to which they are entitled. Aside from Plaintiffs' wholly conclusory statements, there are no facts to establish that any decision concerning the benefits at issue in this case were denied because of the exclusion at issue. Plaintiff Thomas' request for surgical care was evaluated and failed to meet medical necessity standards. Plaintiff Cheney never submitted a request for prior authorization related to gender reassignment surgical care and thus, lacks standing to proceed. Defendants do consider (and have paid for) surgical care to treat gender dysphoria where medically necessary despite the existence of an exclusion in the plan. Accordingly, Plaintiffs failed to state a claim upon which relief can be granted.

- (4) **Describe in detail all statutes, codes, regulations, legal principles, standards and customs or usages, and illustrative case law which defendant contends are applicable to this action.**

42 U.S.C. § 18116

42 U.S.C. §§ 1396a(a)(10)(A)-(B)

Policies and Procedure Manuals of the Georgia Department of Community Health

- (5) **Provide the name, and if known, the address and telephone number of each individual likely to have discoverable information that you may use to support your claims or defenses, unless solely for impeachment, identifying the subjects of the information. (Attach witness list to Initial Disclosures as Attachment A.)**

See Attachment A.

- (6) **Provide the name of any person who may be used at trial to present evidence under Rules 702, 703, or 705 of the Federal Rules of Evidence. For all experts described in Fed.R.Civ.P. 26(a)(2)(B), provide a separate written report satisfying the provisions of that rule. (Attach expert witness list and written reports to Initial Disclosures as Attachment B.)**

Defendant Noggle has not designated an expert at this time. Defendant reserves the right to amend and/or supplement her list of experts should it become necessary during the course of discovery.

- (7) **Provide a copy of, or a description by category and location of, all documents, data compilations, and tangible things in your possession, custody, or control that you may use to support your claims or defenses unless solely for impeachment, identifying the subjects of the information. (Attach document list and descriptions to Initial Disclosures as Attachment C.)**

See Attachment C.

- (8) **In the space provided below, provide a computation of any category of damages claimed by you. In addition, include a copy of, or describe by category and location of, the documents or other evidentiary material, not privileged or protected from disclosure on which such computation is based, including materials bearing on the nature and extent of injuries suffered, making such documents or evidentiary material available for inspection and copying under Fed.R.Civ. 34. (Attach any copies and descriptions to Initial Disclosures as Attachment D.)**

Defendant Noggle is not asserting any claim for damages.

- (9) **If defendant contends that some other person or legal entity is, in whole or in part, liable to the plaintiff or defendant in this matter, state the full name, address, and telephone number of such person or entity and describe in detail the basis of such liability.**

Not applicable.

- (10) **Attach for inspection and copying as under Fed.R.Civ.P. 34 any insurance agreement under which any person carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in the action or to indemnify or reimburse for payments made to satisfy the judgment. (Attach a copy of insurance agreement to Initial Disclosures as Attachment E.)**

Not applicable to Defendant Noggle.

Respectfully submitted, this 19th day of October, 2021.

Respectfully submitted,

CHRISTOPHER M. CARR 112505
Attorney General

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Deputy Attorney General

SHALEN S. NELSON 636575
Senior Assistant Attorney General

s/ MICHELLE W. LEGRANDE
MICHELLE W. LEGRANDE 714924
Senior Assistant Attorney General

PLEASE SERVE:

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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

**Delshone Thomas and Gwendolyn
Cheney,**

Plaintiffs,

v.

**Georgia Department of Community
Health; and Caylee Noggle, in her
official capacity as Commissioner of
the Georgia Department of
Community Health,**

Defendants.

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CERTIFICATE OF SERVICE

I do hereby certify that I have on this day electronically filed Defendant's Initial Disclosures with the Clerk of the Court using the CM/ECF system which will automatically send email notification of such filing to Plaintiffs' attorneys of record.

This 19th day of October, 2021.

s/MICHELLE W. LEGRANDE
MICHELLE W. LEGRANDE 714924
Senior Assistant Attorney General